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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,642	11/27/2001	Hiroshi Aoki	Q67381	8098
7590	06/16/2005		EXAMINER	
SUGHRUE, MION, ZINN, MACPEAK & SEAS 2100 Pennsylvania Avenue, N.W. Washington, DC 20037			HEINRICH, CHRISTOPHER P	
			ART UNIT	PAPER NUMBER
			2663	

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/993,642	AOKI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Christopher P. Heinrichs	2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 30 October 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-6 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-6 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 27 November 2001 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/30/2003, Jul 30- 03  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_.

## DETAILED ACTION

### ***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 3 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6,285,887 to Mimura.

3. With regard to claims 1 and 3, Mimura discloses a power control apparatus and method comprising a plurality of transmission power control means (fig 1 items md1 through mc6) respectively provided for channels (fig 1 items 115), said plurality of transmission power control means including one first transmission power control means (mc# for representative channel, col 10 lines 7-8, for example channel 1 of fig 8) and a plurality of second transmission power control means (at least one channel constituting each group, col 10 lines 8-9, for example channels 4 and 6 of fig 8), and central processing means (fig 1 item 103) for selecting said first transmission power control means from said plurality of transmission power control means (designates, col 10 lines 7-8) and setting a basic code therefor (bit pattern addition command, col 10 lines 9-10) in response to generation of a call (the first connection, col 10 line 8) upon multi-code connection (col 9 lines 33-34) while setting subordinate codes for said second transmission power control means (spread codes, col 9 line 40), wherein said first transmission power control means performs downstream transmission power control ("transmission" from base station fig 1 item 102 being downstream, col 10 lines 11-12) in accordance with a state of communication (col 10 line 16) with a mobile unit (fig 1 item 101) and notifies said central processing means of a control result (comparison of the measured SIR and aimed SIR, col 10 lines 12-13), said central processing means notifies all said second transmission power control means of the notified control result (col 12 lines 28-29), and said second transmission power control means performs downstream transmission power control on a self-channel on the basis of the notified control result (col12 lines 47-52).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 2 and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,285,887 to Mimura.

7. Regarding claims 2 and 4, Mimura discloses all aspects of the inventions of claims 1 and 3 and further discloses that the apparatus and method are installed forming a CDMA mobile communications system (col 9 lines 26-28) but fails to disclose that the entirety of the apparatus reside in and method be performed in a base station. However, Mimura does disclose that the apparatus partially resides in and method is partially performed in a base station (fig 1 item 102). It would have been obvious to one

ordinarily skilled in the art at the time of the invention extend the limits of the base station to encompass the central processing means disclosed by Mimura to arrive at the inventions of claims 2 and 4. The motivation to do so would have been use one hardware unit perform the method as opposed to two allowing the same functions to be performed by a device with a single housing and single power supply, conserving space and energy.

8. Regarding claims 5 and 6, Mimura discloses the method steps to be recorded onto the computer readable medium as set forth in the rejections of claims 3 and 4. Mimura fails to explicitly disclose that the method steps be recorded in program format onto a computer readable medium. However, it would have been obvious to one ordinarily skilled in the art at the time of the invention to record the method disclosed by Mimura onto a computer readable recording medium in program format to arrive at the inventions of claims 5 and 6. The motivation to do so would have been to create a means of transporting the method in computer program format to a plurality of base stations in the form of a computer floppy disk or compact disc, thereby allowing a software transfer from the computer readable recording medium to each of the plurality of base stations, provided they be equipped with means to read said computer readable media, as is well-known in the art, thereby allowing more than a single base station to perform the method recorded onto the computer readable recording medium, and thereby allowing the invention disclosed by Mimura to be used in a plurality of geographic locations.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Willenegger (US-PGPUB 2002/0009061), Method and Apparatus for Controlling Transmit Power of Multiple Channels in a CDMA Communication System.

b. Mimura (US 6,393,005), Method of Controlling Transmitting Power of a Base Station in a CDMA Mobile Communication System.

c. Niegel et al (US 6,512,757), Pipeline Processing for Data Channels.

d. Nakamura et al (US 5,878,350), Scheme for Controlling Transmission Powers During Soft Handover in a CDMA Mobile Communication System.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Heinrichs whose telephone number is 571-272-8397. The examiner can normally be reached on Monday through Friday, 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
C. Heinrichs  
AU 2663

  
RICKY NGO  
PRIMARY EXAMINER

6/10/05